

REGULAR SESSION RUSH COUNTY BOARD OF COMMISSIONERS SEPTEMBER 13, 2010

The Rush County Board of Commissioners met in regular session, Monday, September 13th, 2010 with Commissioners, Tom Barnes, Marvin Cole, Ken Masters, Deborah Adams, Auditor, and Leigh Morning, County Attorney in attendance.

Commissioner Tom Barnes called the meeting to order, Marvin Cole made the motion to approve the minutes of the August 30th meeting as presented. Ken Masters seconded the motion. Motion carried.

I-T

Randy Herbert, I-T Technician and Eric Hartman of INdigital appeared before the commissioners to address contract questions and concerns. Hartman indicated that INdigital is a Full Service Provider with the monthly maintenance fee being \$865.00. Hartman indicated that INdigital will adjust the cost accordingly to the county's concerns. Hartman will electronically forward the contract to County Attorney Leigh Morning to review prior to the September 27th commissioner meeting. Hartman stressed that INdigital is compatible with Verizon/Frontier and that all 911 training will go through INdigital.

Hartman noted that the 911 fees of Frontier will be deducted from INdigital. Both Leigh Morning and Randy Herbert questioned Hartman that this information was not in the currently discussed contract. Hartman informed Morning and Herbert that this arrangement had previously been made with Kimball. Morning requested that Hartman make sure to include this information in the new contract.

Herbert informed the commissioners that Roy Mohr is going to assist him with the monitoring of the AC power situation at no additional cost.

SUPERIOR COURT

Judge Brian Hill appeared before the commissioners to address the high temperatures within the Superior courtroom. Hill reported that during July and August the temperatures reached as high as 85 degrees.

Hill indicated that Deborah Adams had shared the county's current budget constraints, but encouraged him to appear before the commissioners. Tom Barnes reported that he had already discussed the problem with Turnkey. Barnes indicated that installation of a wall unit will be necessary. Barnes informed Hill that the county will not put off fixing the problem.

OPEN BURNING

Nick White representing the Rush County Fire Chiefs Association appeared before the commissioners seeking their adoption of an ordinance prohibiting the open burning of any material within Rush County. White reported that with the severe dry temperatures the county

has become a severe fire hazard. Ken Masters made the motion to approve and adopt Ordinance 2010-5 until further notice. Marvin Cole seconded the motion. Motion carried.

ORDINANCE NO. 2010 - 5

AN ORDINANCE PROHIBITING THE OPEN BURNING OF ANY MATERIALS WITHIN RUSH COUNTY, INDIANA

WHEREAS, according to information released on September 9, 2010, by the National Oceanic and Atmospheric Administration, Rush County, Indiana, is in an area classified as "Abnormally Dry"; and

WHEREAS, due to the drought conditions, the risk of fires starting accidentally, spreading, and burning out of control exists; and

WHEREAS, a state of emergency exists due to the abnormally dry and drought conditions.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the County of Rush, Indiana, as follows:

1. This Ordinance is adopted pursuant to Ind.Code 36-1-3-1.
2. Due to the emergency nature of this Ordinance, this Ordinance is adopted and effective under the provisions of IC 36-2-4-8. It shall be effective immediately upon adoption.
3. Any open burning of a voluntary nature, any discarding of cigarettes in a place other than a place intended for the discarding of cigarettes, any recreational fires, any burning of trash or debris outside, or any activity of a similar nature is hereby prohibited within the boundaries of Rush County until further notice.
4. Any person found to be in violation of this Ordinance shall be subject to the penalty imposed for violating a Class C infraction, as set forth in IC 34-28-5-4, and shall be subject to a minimum fine of \$250.00, plus court costs.
5. This Ordinance shall be enforced pursuant to the provisions of IC 34-28-8.
6. Any fines collected under this Ordinance shall be placed in the County General Fund.
7. The Board of Commissioners shall reevaluate the need for this Ordinance every seven (7) days, after consultation with the President of the Fire Chiefs' Association, the Coordinator of the County Department of Homeland Security, and the Rush County Sheriff.
8. This Ordinance shall remain in effect until its repeal.

Adopted this 13th day of September, 2010.

/s/ Thomas G. Barnes

Thomas H. Barnes

/s/ Marvin L. Cole
Marvin L. Cole

/s/ Ken Masters
Ken Masters

ATTEST: /s/ Deborah C. Adams
Deborah C. Adams,
Rush County Auditor

HIGHWAY

Jerry Sitton, Highway Superintendent, submitted the August monthly report for the commissioners to review.

Sitton reported that the Moscow Covered Bridge is prepared for the Henry County D.O.C. (Department of Correction) to paint the sides. The commissioners reported that comments have been made as to the name on the bridge not saying "Moscow Bridge". The bridge is named "Dan R. Collom & Sons 2010" (who constructed the bridge) Below the name Sitton stated is "Original Bridge Built by E.L. Kennedy – 1886" Sitton informed the commissioners that the former or the other four (4) other covered bridges do not have their names listed on the individual bridges.

Bill Todd noted that the covered bridges are all Kennedy bridges and are referred in name by the family living near by or the location such as the "Moscow Bridge". Marvin Cole mentioned that he did suggest to the committee that the bridge be named the "Moscow Bridge". Sitton informed the commissioners that the committee as a group named the bridge.

The commissioners shared their disappointment and how they would have preferred the bridge to be named "Moscow Bridge". The conversation ended with their stating that they would discuss and address the matter at a later date.

SHERIFF

Jeff Sherwood, Sheriff, reported forty-three (43) inmates incarcerated in the Rush County jail. Seven (7) inmates are sentenced inmates; thirty-five (35) inmates are pre-sentenced. Eleven of the inmates are women.

Sherwood reported that the painting has been completed in the necessary areas of the outside courthouse.

The commissioners approved the K-2 Ordinance 2010-6 that will become effective October 1, 2010 on a motion by Marvin Cole. Seconded by Ken Masters. Motion carried.

ORDINANCE NO. 2010-6

AN ORDINANCE PROHIBITING THE POSSESSION AND SALE OF SUBSTANCES CONTAINING SYNTHETIC CANNABINOIDS OR THEIR USE

WHEREAS, the Board of Commissioners in Rush County have been made aware that substances containing synthetic cannabinoids, which include substances containing one (1) or more of the following chemical compounds:

(1) (6aR, 10aR)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2methyloctan-2-yl)-6a,7, 10, 10a-tetrahydrobenzo[c]chromen-1-ol, also known as HU-210;

(2) 1-Pentyl-3-(1-naphthoyl)indole, also known as JWH-018;

(3) 1-Butyl-3-(1-naphthoyl)indole, also known as JWH-073; or

(4) All parts of the plant presently classified botanically as *Salvia divinorum*, whether growing or not, any extract from any part of such plant, and every compound, manufacture, salts derivative, mixture or preparation of such plant, its seeds or its extracts;

(5) TFMPP, a substance also known as 1-(3-[trifluoromethylphenyl]) piperazine; or

(6) Cannabicyclohexanol, a substance also known as 2-[(1R,3S)-3-hydroxycyclohexyl]- 5-(2-methylnonan-2-yl)phenol;

(7) any other relevant compound or derivative

("Products") have been marketed, sold, and offered for sale to the residents of Rush County, including minors; and

WHEREAS, the citizens of Rush County and various elected and law enforcement officials have noted an increased use of such Products, currently marketed and sold under the following names: K2, Spice, Pep, Zohai, Yucatan Fire, Genie, Acapulco Spices, Serenity Now, Spice Gold, Shokotsu, Afghan Incense, Baked, Black Magic, Buzz, Cherry Charm, Fire Bird, Fire "N" Ice, Pulse, Solitude, Voodoo, or Mr. Smiley, or any other herbal-based substance containing the aforementioned substances; and

WHEREAS, Indiana law provides that the County Executive may enact Ordinances to promote and protect the safety, health, and welfare of its citizenry; and

WHEREAS, the Products containing synthetic cannabinoids have not been tested by the Food and Drug Administration (United States Department of Agriculture) or any other governmental agency for human consumption and may contain chemicals detrimental to the health and welfare of those who may ingest them; and

WHEREAS medical studies and treatises note deleterious health risks and adverse effects associated with synthetic cannabinoids and the Products; and

WHEREAS, the substances are not yet categorized as controlled substances under State or Federal law; and

WHEREAS, several states and municipalities throughout the State of Indiana and the United States have banned the Products and synthetic cannabinoids as a danger to the public health and welfare; and

WHEREAS, the smoke emanating from the burning or incinerating of the Products may cause adverse effects on bystanders or those in the vicinity of such activity; and

WHEREAS, the Board of Commissioners of the County of Rush, Indiana, believe it is in the best interests of its citizens to prohibit the sale, marketing, or offering for sale of the Products within Rush County, Indiana, to protect the health, safety, and welfare of the citizens and children of Rush County, Indiana.

NOW, THEREFORE, BE IT ORDRAINED, by the Board of Commissioners of the County of Rush, Indiana, as follows:

1. This Ordinance is adopted pursuant to Ind.Code 36-1-3-1.

2. Products containing synthetic cannabinoids ("Products"), such as K2 or Spice, or similar products which contain one or more of the following chemical compounds:

(1) (6aR, 10aR)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2methyloctan-2-yl)-6a,7, 10, 10a-tetrahydrobenzo[c]chromen-1-ol, also known as HU-210;

(2) 1-Pentyl-3-(1-naphthoyl)indole, also known as JWH-018;

(3) 1-Butyl-3-(1-naphthoyl)indole, also known as JWH-073; or

(4) All parts of the plant presently classified botanically as *Salvia divinorum*, whether growing or not, any extract from any part of such plant, and every compound, manufacture, salts derivative, mixture or preparation of such plant, its seeds or its extracts;

(5) TFMPP, a substance also known as 1-(3-[trifluoromethylphenyl]) piperazine; or

(6) Cannabicyclohexanol, a substance also known as 2-[(1R,3S)-3-hydroxycyclohexyl]- 5-(2-methylnonan-2-yl)phenol;

(7) any other relevant compound or derivative
shall not be sold, marketed, or offered for sale within Rush County, Indiana; and

3. Products containing synthetic cannabinoids ("Products") may not be burned, incinerated, or ignited in any public place or on any property owned, leased or controlled by Rush County.

4. It is unlawful for any business or retail establishment to sell, to publicly display for sale, or to attempt to sale, give or barter synthetic marijuana or synthetic equivalents of substances contained in the plant Cannabis, or in the resinous extractives of Cannabis and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity or any substance which claims such properties even if in actuality they do not. Since nomenclature of these substances is no internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions, are similarly prohibited.

5. Persons violating the provisions of this Ordinance shall be subject to the penalty imposed for violating a Class B infraction, as set forth in IC 34-28-5-4, and shall be subject to a minimum fine of \$500.00, plus court costs. Each day of the existence of any violation of this Ordinance shall be considered a separate offense.

6. Entities, including businesses and retail establishments, violating the provisions of this Ordinance shall be subject to the penalty imposed for violating a Class B infraction, as set forth in IC 34-28-5-4, and shall be subject to a minimum fine of \$2,500.00, plus court costs. Each day of the existence of any violation of this Ordinance shall be considered a separate offense

7. Any person found to be in possession of the aforementioned substances shall be subject to the penalty imposed for violating a Class C infraction, as set forth in IC 34-28-5-4, and shall be subject to a minimum fine of \$250.00, plus court costs. Further, if any of the aforementioned substances are found in the possession of any person, they may be confiscated and destroyed by any law enforcement official as provided by law. Each day of the existence of any violation of this Ordinance shall be considered a separate offense

8. This Ordinance shall be enforced by the provisions of IC 34-28-5.

9. Any fines collected under this Ordinance shall be placed in the County General Fund.

10. This Ordinance shall be effective October 1, 2010, after publication as required by law.

Adopted this 13th day of September, 2010.

/s/ Thomas G. Barnes
Thomas H. Barnes

/s/ Marvin L. Cole
Marvin L. Cole

/s/ Ken Masters
Ken Masters

ATTEST: /s/ Deborah C. Adams
Deborah C. Adams,
Rush County Auditor

AUDITOR

Deborah Adams, Auditor, received approval on payroll claims on a motion by Ken Masters, seconded by Marvin Cole. Motion carried.

Bi-Weekly claims were on a motion by Marvin Cole. Seconded by Ken Masters Motion carried. Adams reported that the SBOA (State Board of Accounts) statewide called meeting for county auditors will be held in Monroe County October 25th to October 28th. Adams reminded the commissioners that her AIC annual conference registration fee is waved since she is a board member. Adams noted that this will go against the mileage reimbursement.

The commissioners approved and signed the Surety bond for Deputy Clerk Traci Chandler on a motion by Ken Masters. Seconded by Marvin Cole. Motion carried.

The commissioners reviewed the Carthage Fire and the Rush Memorial Hospital ambulance run reports. Adams reported that public questions had risen regarding RMH only indicating “residence” at destination of dispatch. Yet, Carthage, Raleigh and Anderson Twp all indicate the actual dispatch street/road location. Adams explained that this conversation with RMH resulted in a conversation with County Attorney Leigh Morning who is also the attorney for RMH. Adams reported that Morning informed her that this was a HIPPA violation for RMH. County Attorney Leigh Morning concur this conversation. Morning did note that the other EMS township unit’s attorneys should have informed the units that this was a HIPPA violation. Morning also noted that it was foolish of her to think that the other EMS township units had attorneys. Morning offered to send letters to the other EMS units upon request of the commissioners. No action was taken.

Jerry Sitton questioned how E-911 dispatchers were able to release addresses and be protected by HIPPA. Morning explained that the dispatchers were not providing health information because the dispatcher is not providing health care. Sitton committed that the run reports were no good without having the actual dispatch address. Tom Barnes explained that the run reports still provide a wealth of information. Adams commented that whatever format was good for one unit was good for all the units. Marvin Cole made the motion to take the matter under advisement. Ken Masters seconded the motion. Motion carried.

Adams reported that Mrs. Wendell of Moscow had visited her office following the article in the Tuesday, Rushville Republican. Adams reported that Mrs Wendell filed a Public Records Request form for copy of the petition that had been turned over to her earlier by Commissioner Tom Barnes. A copy of the petition was released to Mrs. Wendell. Tom Barnes reported that he will be meeting with the Wendell’s at 1:00 to hopefully resolve the petition concerns.

MISC.

- The commissioners gave the Rush County Chamber the authority to utilize the 1st floor of the courthouse from Noon until 4:00, Sept 25 of the Rush County Festival. The Madrigal singers will be providing entertainment. Ken Masters who is on the Chamber committee will work with the Sheriff Dept to coordinate the security of the building.
- Tom Barnes reported that notification has been received from the Secretary of State that the county needs to be able to provide alternate site selections.

Motion to adjourn was received from Ken Masters. Marvin Cole seconded the motion. Motion carried.

<u>/s/Tom Barnes</u>	<u>/s/Marvin Cole</u>	<u>/s/Ken Masters</u>
Tom Barnes, Chairman	Marvin Cole	Ken Masters

ATTEST:

/s/Deborah C. Adams
Deborah C. Adams, Auditor